Supreme Court, U.S.
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No. 95-1861

IN THE

Supreme Court of the United States

OCTOBER TERM, 1995

DANIEL IMMEDIATO, DIANE IMMEDIATO, and EUGENE IMMEDIATO,

Petitioners,

vs.

RYE NECK SCHOOL DISTRICT; KATHLEEN D. GULOTTA, FRANK SPEDAFINO, BEATRICE CERASOLI, ALAN MANOCHERIAN, JANICE K. ANDERSON, LIZ PERELSTEIN; and PETER J. MUSTICH,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUPPLEMENTAL BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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Pursuant to Supreme Court Rule 15.8, respondents, RYE NECK SCHOOL DISTRICT; KATHLEEN D. GULOTTA, FRANK SPEDAFINO, BEATRICE CERASOLI, ALAN MANOCHERIAN, JANICE K. ANDERSON, LIZ PERELSTEIN, in their official capacities as members of the Rye Neck School District Board of Education, and PETER J. MUSTICH, in his official capacity as Superintendent of the Rye Neck School District (hereinafter "respondents" or "the school district") submit the within supplemental brief in further opposition to the petition for writ of certiorari of DANIEL IMMEDIATO, DIANE and EUGENE IMMEDIATO,

(hereinafter "Petitioners"), to advise the Court of a recent decision of the Fourth Circuit Court of Appeals which is directly relevant to the case at bar, *Herndon v. Chapel Hill-Carrboro City Board of Education,* No. 95-2525, slip op. (4th Cir. July 11, 1996), 1996 WL 386531. (The text of the decision is annexed hereto). The *Herndon* decision was rendered subsequent to the filing of respondents' initial opposition brief.

In *Herndon,* plaintiff parents claimed that the Chapel Hill-Carrboro City School District's 50-hour community service requirement, with an attendant paper requirement, violated the parent's fundamental right to direct the upbringing of their children.[1] (A-1-A-3). Plaintiff students further claimed that the community service requirement violated their liberty rights and constituted involuntary servitude under the Thirteenth Amendment. *Id.*

The Fourth Circuit rejected each of these claims, stating with respect to the parental rights claim,

> From Meyer to Runyon, the Supreme Court has stated consistently that parents have a liberty interest, protected by the Fourteenth Amendment, in directing their children's schooling. Except when the parents' interest includes a religious element, however, the Court has declared with equal consistency that reasonable regulation by the state is permissible even if it conflicts with that interest. That is the language of rational basis scrutiny. The claimants in this case concede that their interest is not religious, so we must reject their position if the service requirement "bear[s] some rational relationship to legitimate state purposes." Rodriguez, 411 U.S. at 40 (1973). The parents also acknowledge "the basic

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[1] The Chapel Hill-Carrboro City School District also permits students to either choose from an approved list of community service organizations or to select an organization of their own choosing provided they receive preapproval from the Service Learning Committee and/or the principal. *Id.* at 1.

> legitimacy" of the district's interest in teaching students the value of service, and that the service requirement is rationally related to that interest. Thus, under rational basis scrutiny, the requirement does not infringe unconstitutionally on their right to control their children's education. (A-7-A-8).

Thus, three Circuit Courts of Appeal have examined mandatory community service requirements and all three have rejected each and every constitutional challenge.[2] Accordingly, respondents urge this Court to deny the petition for writ of certiorari because the law is well-settled and there is no split among the circuits meriting review by this Court.

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[2] *Herndon v. Chapel Hill-Carrboro City Board of Education,* No. 95-2525, slip op. (4th Cir. July 11, 1996), 1996 WL 386531; *Immediato v. Rye Neck School District,* 73 F.3d 454, 461-462 (2d Cir. 1996); *Steirer v. Bethlehem Area School District,* 987 F.2d 989, 998 (3rd Cir.), *cert. denied,* 510 U.S. 824, 114 S.Ct. 85, 126 L.Ed.2d 253 (1993).

CONCLUSION

For the foregoing reasons, the Petition for a Writ of Certiorari should be denied.

Respectfully submitted,

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